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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,433	09/26/2003	MacKenzie E. King	ARMI-617	8498
7590 01/15/2008 Advanced Technology Materials, Inc. 7 Commerce Drive Danbury, CT 06810-4169			EXAMINER OLSEN, KAJ K	
			ART UNIT 1795	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/672,433

Applicant(s)

KING ET AL.

Examiner

Kaj K. Olsen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 and 22-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 22-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 10-18-2007.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. A number of the references listed on the IDS of 10-18-2007 have been lined through because applicant did not provide copies of these non-patent literature documents. The applicant remarked that a number of these references are apparently available in other filed applications. First, 37 CFR § 1.98(a)(2) does not establish that stating where these references can be found in other applications is an acceptable substitute for providing a legible copy of that reference. Second, the examiner would note that each application in the office should be a complete self-contained record of the examination process. Hypothetically, a member of the public who is permitted to inspect this application record at some future date would presumably not be also permitted to inspect these other application records as well making this application record an incomplete record of the examination. Hence, unless a copy of the references are provided in this record or in some parent application record, a consideration of such citations of those references would result in an incomplete examination record. Finally, if the applicant is not even in possession of any of these references as they freely admitted (and hence has no idea of the relevance of any of these citations to the instant invention), then why does the applicant deem it necessary for the examiner to spend his examination time tracking them down for consideration? Reference Huiliang et al (citation EA) was provided by applicant, but the copy provided was illegible and not suitable for appropriate consideration.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-17 and 22-36 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 was amended to include limitations from cancelled claim 43. However, applicant appears to have amended the wrong limitation. In particular, claim 43 was further defining features of limitation (1) of claim 1, namely the cleaning mechanism. See previous claims 22 and 43. However, applicant has included this new limitation under limitation (3) drawn to the voltage limiting mechanism.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 2, and 9-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Robertson (USP 6,758,960).

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7. Robertson discloses an electrode assembly for analyzing a metal electroplating solution comprising a measuring electrode (the central electrode) and an *in situ* cleaning mechanism that comprises an auxiliary electrode and an auxiliary current source whereby the measuring and auxiliary electrodes are detachably connectable to the auxiliary current source. See fig. 1A and 1B. Robertson further teaches immersing the electrodes in an electrolytic cleaning solution (col. 2, ll. 13-21) and teaches applying an AC voltage across the measuring and auxiliary electrodes (col. 3, ll. 40-53). An AC voltage reads on the set forth “cycling electric current” because the AC voltage source applies current that will cycle over a period defined by the AC frequency. With respect to the use of “galvanodynamic cleaning”, as the examiner explained in the previous office action, Robertson teaches the use of galvanodynamic process because “galvanodynamic” infers a changing current and the AC current of Robertson is clearly changing (see paragraph 22 of the 9/11/2007 office action).

8. With respect to the addition of the limitation drawn to the electropotential measured by the measuring electrode reaching an asymptotic limit, this limitation is currently only further defining the voltage limiting mechanism (see 112 rejection above). Because claim 1 only requires that the assembly comprise “at least one of” the cleaning mechanism, nucleation growth mechanism, and a voltage limiting mechanism, this new limitation does not further define the cleaning mechanism and Robertson still anticipates the claimed invention. Furthermore, even if the examiner were to interpret this new limitation as being part of the cleaning mechanism, claim 1 is drawn to structure (i.e. an assembly) and this limitation merely describes how this structure is to be further utilized (i.e. measuring a potential and applying a current until a potential reaches an asymptotic limit). That is only the intended use of the apparatus and the intended use need

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not be given further due consideration in determining patentability. Note that claim 43 was deemed to contain allowable subject matter because it further defined the *method* of claim 22.

Claim 1 is not a method claim.

9. With respect to the applied current densities and the number of cycles of current to be applied, that is only the intended use of the apparatus and the intended use need not be given further due consideration in determining patentability.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 1-5, 7, and 9-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang et al (USP 5,192,403) in view of Wullshleger et al (USP 4,772,375).

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13. Chang disclose an electrode assembly for analyzing a metal electroplating solution comprising a measuring electrode and a cleaning mechanism. The cleaning mechanism comprises an auxiliary electrode where an auxiliary current source (i.e. a potentiostat) is connected to both the auxiliary and measuring electrodes so that when both of the electrodes are immersed in a cleaning solution, the auxiliary current source applies a cycling electric current to the measuring and auxiliary electrodes for cleaning of the electrodes. See col. 7, ll. 52-65.

Although Chang does not explicitly disclose that the electrodes are detachably connectable to the auxiliary current source, it is well known in the electroanalytical art to make the various electrodes be detachably connectable to a voltage source. This is demonstrated by Wullschleger, which teaches that the cleaning voltage can be applied via a detachable connection (i.e. a switch 52) to the electrode. See fig. 1 and col. 4, ll. 49-53. It would have been obvious to one of ordinary skill in the art at the time the invention was being made to utilize the teaching of Wullschleger for the assembly of Chang so that the electrodes of Chang can be detached from the power source. With respect to the cleaning mechanism of Chang being *in situ* for cleaning the measuring electrode in a measuring chamber it is noted that this term doesn't further define any structure of the device, but merely specifies how the cleaning mechanism is to be utilized. The intended use need not be given further due consideration in determining patentability.

Alternatively, even if the examiner were to interpret the term "*in situ*" to have structural meaning and were to interpret the term to mean that the cleaning mechanism must be in the same location as an unspecified measurement chamber, it is noted that Wullschleger teaches that the cleaning need not require removal of the electrode from the measurement environment, but rather can be performed *in situ*. See col. 4, l. 49 through col. 5, l. 32. It would have been obvious to one of

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ordinary skill in the art at the time the invention was being made to utilize the cleaning mechanism of Chang *in situ* with the measurement environment, as taught by Wullschleger, to as to avoid the complexity of having to physically move the measuring electrode back and forth from the measurement chamber to the cleaning chamber. With respect to the measuring electrode being detached from the measuring circuit and attached to the auxiliary current source, Wullschleger already discloses that the measurement circuitry can be disconnected from the electrodes during the cleaning cycle. See col. 5, ll. 28-32. With respect to the use of galvanodynamic cleaning, the examiner discussed previously that the current cycling of Chang reads on the term “galvanodynamic” because Chang relies on a changing current. See paragraph 24 from the 9/11/2007 office action.

14. With respect to the addition of the limitation drawn to the electropotential measured by the measuring electrode reaching an asymptotic limit, this limitation is currently only further defining the voltage limiting mechanism (see 112 rejection above). Because claim 1 only requires that the assembly comprise “at least one of” the cleaning mechanism, nucleation growth mechanism, and a voltage limiting mechanism, this new limitation does not further define the cleaning mechanism and Chang and Wullschleger still render obvious the claimed invention. Furthermore, even if the examiner were to interpret this new limitation as being part of the cleaning mechanism, claim 1 is drawn to structure (i.e. an assembly) and this limitation merely describes how this structure is to be further utilized (i.e. measuring a potential and applying a current until a potential reaches an asymptotic limit). That is only the intended use of the apparatus and the intended use need not be given further due consideration in determining



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patentability. Note that claim 43 was deemed to contain allowable subject matter because it further defined the *method* of claim 22. Claim 1 is not a method claim.

15. With respect to the applied current densities and the number of cycles of current to be applied for the apparatus claims, that is only the intended use of the apparatus and the intended use need not be given further due consideration in determining patentability.

16. Claims 3-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson in view of Chang.

17. Robertson set forth all the limitations of the claims, but did not explicitly recite the use of sulfuric acid for the cleaning solution. It is noted that Robertson did suggest that the electrolytic solution should contain an acid (col. 2, l. 15). Chang taught that the cleaning solution for an electrode cleaning mechanism could be 0.1 M sulfuric acid. See col. 7, ll. 52-65. It would have been obvious to one of ordinary skill in the art at the time the invention was being made to utilize the teaching of Chang for the assembly of Robertson because sulfuric acid was shown to be a suitable acid for the acid cleaning of measuring electrode for an electroplating solution device.

18. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Chang and Wullschleger or Robertson and Chang as applied to claims 5 and 7 above, and in further view of Faulkner et al (USP 3,950,234) or Tobiyama et al (USP 5,447,802).

19. The references set forth all the limitations of the claims, but did not explicitly recite the addition of potassium sulfate to the cleaning solution. Faulkner teaches the addition of ion salts such as potassium sulfate to an electrolytic solution in order to improve its conductivity, thereby reducing the energy requirements for the electrodes. See col. 11, l. 67 through col. 12, l. 13.

Tobiyama similarly teaches that potassium sulfate can be added to a sulfuric acid solution so as

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to improve the conductivity of the solution. See col. 6, ll. 19-31 and table 2. It would have been obvious to one of ordinary skill in the art at the time the invention was being made to utilize the teaching of Faulkner or Tobiyama for the assembly of either Chang and Wullschleger or Robertson and Chang so as to improve the conductivity of the electrolytic solution. An increased conductivity cleaning solution would have allowed the applied voltages of Chang and Robertson to provide additional current, thereby providing additional cleaning action. With respect to the desired concentration of the potassium sulfate, finding the appropriate concentration of potassium sulfate to provide the desired level of conductivity enhancement would have required only routine skill in the art.

20. Claims 9-17 in the alternative are rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson.

21. With respect to these claims, the examiner deemed that these limitations did not further define the structure of the assembly (see discussion above). However, even if the examiner were to interpret these limitations as further defining the structure of the invention, it would have been obvious to one of ordinary skill in the art at the time the invention was being made to utilize any of the claims ranges because finding the desired current densities and cycling rates needed for establishing the desired level of cleaning requires only routine skill in the art. Similarly, the number of cycles need for the cleaning would also have required only routine skill in the art. One possessing ordinary skill in the art would have known to apply as many cycles as is necessary to arrive at the desired level of cleanliness for the electrodes.

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***Allowable Subject Matter***

22. Claims 22-36 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. With respect to claim 22, this claim contains allowable subject matter for the reasons set forth for claim 43 in the previous office action. Claims 23-36 are merely objected to because they depend from claim 22 containing allowable subject matter.

***Response to Arguments***

23. Applicant's arguments filed 10-29-2007 have been fully considered but they are not persuasive. Applicant urges that the amendments to claims 1 and 22 incorporating allowable subject matter render all the claims allowable. Although this is correct for claim 22, this is not correct for claim 1 for the reasons set forth in the body of the rejections above.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaj Olsen whose telephone number is (571) 272-1344. The examiner can normally be reached on Monday through Friday from 8:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen, can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AU 1795  
January 14, 2008



KAJ K. OLSEN  
PRIMARY EXAMINER